

TS
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Fusao SHIMIZU

Application No.: 09/863,447

Filed: May 24, 2001

For: SHAPE MEASUREMENT DEVICE

RECEIVED
SEP 19 2001
OFFICE OF PETITIONS

Docket No.: 109589

**PETITION IN RESPONSE TO NOTICE OF OMITTED ITEMS IN A
NON-PROVISIONAL APPLICATION**RECEIVED
SEP 19 2001Director of the U.S. Patent and Trademark Office
Washington, D.C. 20231

OFFICE OF PETITIONS

Sir:

The Notice of Omitted Items in a Non-Provisional Application mailed July 23, 2001 in this application indicated that Figure 9 was not filed with the application on May 24, 2001. A copy of the Notice is attached. This Petition is in accordance with Option I in the Notice.

It is respectfully submitted that the Notice is in error because Figure 9 was filed with the application on May 24, 2001.

Attached to this communication is a copy of the U.S. Patent and Trademark Office postcard acknowledgement of receipt, acknowledging receipt of all of Figures 1-13B. It is respectfully submitted that Figure 9 was part of Figures 1-13B submitted on May 24, 2001, and that the U.S. Patent and Trademark Office acknowledged receipt of all of Figures 1-13B on May 24, 2001.

It is acknowledged that our postcard acknowledgment of receipt indicates that 12 sheets of figures were provided on May 24, 2001 and that Figures 1-13B would constitute 13 sheets. However, it is respectfully submitted that: 1) Figure 9 was included in the receipt of Figures 1-13B; 2) the U.S. Patent and Trademark Office acknowledged receipt of Figures 1-13B; and 3) the postcard acknowledgement of receipt erroneously referred to 12 sheets instead of 13 sheets.

For the convenience of the U.S. Patent and Trademark Office, enclosed is another copy of Figure 9. However, it is noted that Option II in the Notice is not elected. It is intended to maintain the May 24, 2001 filing date.

Attached is our check number 121378 in the amount of \$130.00 for the petition fee under 37 CFR 1.17(h). In addition, the U.S. Patent and Trademark Office is authorized to debit Deposit Account No. 15-0461 in the amount necessary to effect filing of this Petition. However, it is respectfully submitted that the Petition fee should be refunded because Figure 9 of the formal drawings was received by the U.S. Patent and Trademark Office on May 24, 2001.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Thomas J. Pardini
Registration No. 30,411

JAO:TJP/jag

Enclosures:

Notice of Omitted Items in a Non-Provisional Application
Postcard Acknowledgment of Receipt
Figure 9

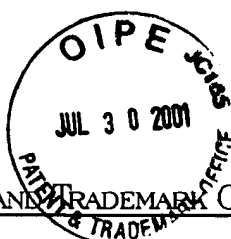
Date: July 30, 2001

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/863,447	05/24/2001	Fusao Shimizu	109589

CONFIRMATION NO. 9822

25944

OLIFF & BERRIDGE, PLC
277 S. WASHINGTON STREET, SUITE 500
ALEXANDRIA, VA 22314

FORMALITIES LETTER



OC000000006329366

Date Mailed: 07/23/2001

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 9 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b)**. In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

A copy of this notice MUST be returned with the reply.

MTB
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



PTO RECEIPT FOR FILING OF P/ 1S

The following papers have been filed:

Appln Tran, ck #119325, \$710, spec/claims (5)/abstract-43 pages, 12 sheets drwg (figs 1-13B),
exec Decl, Assg. Tran, ck #119324, \$40, exec Assign, Cert Copy JP #2000-155493 filed May 25,
2000

Name of Applicant:	Fusao SHIMIZU
Serial No.:	New U.S. Patent Application
Atty. File No.:	109589
Title (New Cases):	SHAPE MEASUREMENT DEVICE
Sender's Initials:	JAO/kaf

11011 U.S. PTO
09/063447
08/24/01